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Jim Brown, General Counsel & Director
444 N. Capitol St., N.W., Suite 401
Lexington, KY 40578-1910
(859) 244-8000
hall of the states

Washington
Jim Brown, General Counsel & Director
444 N. Capitol St., N.W., Suite 401
Washington, DC 20001
(202) 624-5460

Executive Committee
chair Sen. Manny M. Aragon, N.M.
president Gov. Dirk Kempthorne, Idaho


vice president Gov. Mike Huckabee, Ark.

executive committee

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Power woes continue

The blame game over power woes in California continued in April. The state’s largest utility filed for bankruptcy April 6 in a move that rejected Gov. Gray Davis’ plan to buy the utility’s transmission lines.

However, Davis arranged for the state to buy the transmission lines of another nearly bankrupt utility, Southern California Edison, for $2.76 million. PG&E’s announcement came the day after Davis in a statewide television and radio address called for customers of the state’s three private utilities to pay higher rates and conserve more. The governor’s proposed rate hikes would have helped the state finance bonds for long-term power purchases. A small part of the funds would have gone to help utilities pay off their debt, providing the utilities agreed to sell their transmission lines to the state. Senate President Pro Tem John Burton disagreed with helping pay debts for the three private utilities. Instead, Burton and a group of legislators urged Davis to use the power of eminent domain to seize power plants.

After PG&E’s bankruptcy filing, Davis criticized PG&E’s management.

The Legislature recently approved energy conservation measures costing $1.1 billion to provide financial carrots for people to reduce power use by such means as replacing older energy-wasting appliances and lighting systems and putting in better electricity meters.

Meanwhile, there were new warnings the state will face 34 days of rotating blackouts this summer unless consumers begin conserving more.

Hawaii teachers strike

Public school teachers statewide walked out of classrooms on April 5, affecting 180,000 children. The State Department of Education closed the state’s 250 elementary and secondary schools while it assessed the situation. The 13,000 public-school teachers were joined in the walkout by 3,100 faculty members at the University of Hawaii, which has 43,000 students. The school teachers want a 22 percent pay raise over four years and the governor says the state cannot afford it. The Hawaii Labor Relations Board chastised both the state and the teachers’ union, saying they act “as though they have taken our schools hostage and are prepared to begin sacrificing hostages unless they achieve their objectives.” Public school teachers earn an average of $40,000 in Hawaii.

Dispute over testing

A much-touted Texas law to curb social promotion – the practice of automatically passing students to the next grade – is coming under fire. House Public Education Committee Chairman Paul Sadler in April called for delaying the program a year to give the first scheduled group of third graders time to adjust to a tough new statewide test. Under the 1999 law, third, fifth and eighth grade students must pass a state exam to be promoted to the next grade. Third-graders in 2000-2003 will be the first affected by the new law.

Sadler, the House sponsor of the 1999 law, said, “What is wrong with delaying it one year? The issue is what is the most accurate and fair way to implement this new program.”

President George W. Bush, who as governor signed the law, and Gov. Rick Perry oppose any delay in implementing the law.

A chain of cruelty

Research showing a strong correlation between violence against animals and violence toward humans is getting support in state legislatures. Bills before legislatures in Florida, Maine and Minnesota are among those getting tough on people who abuse pets and other animals. Carol Richards testified to a Maine legislative committee that she was the victim of a boyfriend who first showed his violent nature by abusing his dog.

Various studies show that animal abusers are more likely to commit other violent crimes and that families who abuse children also have abused their family pets, according to the American Humane Association. With this in mind, a Florida bill, S.B. 96, would require animal control officers to report known or suspected child abuse. Maine is considering a similar measure, along with bills to toughen penalties for animal abuse and help hire more trained officers to enforce animal laws. A Minnesota House Committee in April advanced a bill to make killing pets a felony.
Tax cut approved

Idaho legislators sent Gov. Dirk Kempthorne a $111 million tax cut to sign at the end of the 2001 session. The bill provides for individual and corporate income tax relief as well as an investment tax credit for broadband technology and other tax credits aimed at economic development. Kempthorne said, “What we achieved was what I sought at the beginning of the session – significant tax relief, a solid education package, and steps to help our economy grow.”

The session passed a record $933 million budget for education, funded repairs to the state capitol and expanded drug treatment for inmates.

Affirmative action on appeal

The University of Michigan law school was cleared to continue its affirmative-action policies using race as a factor in admissions. The university is appealing an order by U.S. District Judge Bernard Friedman that struck down the nine-year-old policy. A three-judge panel of the U.S. 6th Circuit Court of Appeals in Detroit in April said the school could continue the policy pending appeal to avoid disrupting the selection of the law school class.

Eco-terrorism outlawed

Kansas Gov. Bill Graves signed into law a measure banning eco-terrorism April 4. The measure makes it a felony to damage or destroy field crops that are part of a product development program and allows civil suits for triple damages. Sen. Steve Morris, a farmer, sponsored the bill. Morris is co-chair of The Council of State Governments’ Agricultural Policy Task Force, which endorsed a similar California law, included in CSG’s Suggested State Legislation for 2001. The laws are aimed at sabotage and attacks on agricultural research by extremist groups. (See “Fighting the wrong fight,” February 2001, SGN).

Georgia session ends

A college-savings plan highlighted actions taken by the 2001 Georgia General Assembly, which adjourned in March. The session approved the governor’s plan to allow parents to save in tax-advantaged accounts for their children’s education. Other measures would end social promotion in schools, crackdown on pimps who prey on young girls, restrict teen-age driving, tighten drunken-driving laws, punish aggressive driving and raise the state minimum wage to $5.15 an hour. The $15.4 billion state budget raises teachers’ salaries by 4.5 percent and funds more state troopers. A measure expands the definition of “minority” to include Hispanics, as well as blacks, Asians and Native Americans. The provision is part of a plan to allow a tax break for contractors who hire minority subcontractors.

School finance passes

Colorado Gov. Bill Owens said he would sign a compromise $3.8 billion school-funding bill passed March 29. The Republican governor welcomed the inclusion of $5.2 million in construction money for charter schools and $2.9 million in grant money for assisting low-performing schools. The measure provides an average of $5,445 per pupil.

Budget squeaker

North Carolina officials announced they would make the $360-million state payroll for the end of March without tapping the rainy-day account or other funds. All employees were paid March 30, Controller Ed Renfrow said. Gov. Mike Easley froze more than $1 billion in state spending in February to avoid a deficit at the end of the fiscal year. On April 6, Easley notified legislative leaders that he was releasing $40 million in money set aside for recovery from Hurricane Floyd not needed to help balance the budget.
DNA ID in court

California appeals court suspended prosecution of a sexual-assault case while it decides on the legality of the arrest warrant used. In the arrest warrant, the suspect was identified only by his DNA profile. Paul Robinson, 32, was charged in October with a sexual assault committed in 1984 after a DNA sample taken from him in an unrelated matter was matched to a sample from the 1984 rape. The case challenges the increasingly popular practice by prosecutors of filing “John Doe” arrest warrants based only on DNA evidence to avoid legal time limits on bringing charges.

California law gives police six years following a rape to bring charges unless an arrest warrant has been filed. Prosecutors argue that DNA, unique to each individual, can identify suspects more accurately than a description of the suspect’s appearance.

Tuition relief dispute

A second appellate court has upheld the legality of tuition tax credits adopted by the Illinois General Assembly in 1999. A three-judge panel of the Fifth District Appellate Court in Mount Vernon upheld the credits April 3. The Illinois Federation of Teachers, which opposes the law, will appeal the ruling to the state Supreme Court.

The law, beginning with the 2000 tax year, provides a 25 percent tax credit for families who spend at least $250 a year on tuition, book fees or laboratory fees, up to a maximum credit of $500 a family.

Appellate Judge Philip Rarick in the majority opinion wrote, “The credit at issue here does not involve any appropriation or use of public funds.” The teachers’ union contends the credit supports religious education in violation of separation of church and state. The Revenue Department estimates that the credits will reduce income-tax collections by up to $75 million.

Hang up and drive?

Legislators in some 38 states considered bills this year to restrict the use of cell phones by drivers. The support of New York’s governor and two top legislative leaders of a ban on handheld cell phones in cars boosted chances of passage of bills there. No state has yet passed such a ban. Most of the measures would ban handheld phones, but allow use of hands-free phones.

Typical is a Massachusetts bill, co-sponsored by Sen. James P. Jajuga and Rep. Timothy Toomey, which has gained the support of some in the industry. Wireless Zone, a communications retail chain, offered to give away 10,000 hands-free devices to promote the bill.

A forthcoming study by the AAA Foundation for Traffic Safety, a research arm of the American Automobile Association, found cell phones caused few accidents. Cell phone use was the cause of less than 2 percent of 26,000 accidents studied from 1995 to 1998. A bout 110 million Americans own wireless phones and surveys show 62 percent make calls from their cars.

Swift succeeds Cellucci

Jane Swift became Massachusetts’ first female governor April 10 after the U.S. Senate confirmed Gov. Paul Cellucci as ambassador to Canada. Sen. Jesse Helms, R-N.C., chairman of the Senate Foreign Relations committee, had said he had misgivings about Cellucci because he is a pro-choice Republican, but did not block the appointment. Swift, who is pregnant with twins, will also be the first governor to give birth while in office.

A fix for a shortfall

Kentucky will dip into its rainy-day fund for the first time since 1992 to make up part of a $117 million budget shortfall, Cabinet Secretary Crit Luallen said in April. An even larger shortfall of $180 million looms in the next fiscal year, according to Jim Ramsey, Kentucky budget director. The two officials held a news conference to release budget cuts approved by Gov. Paul Patton. Elementary and higher education and health services were exempted from the 2 percent to 4 percent cuts made by state agencies. Ramsey attributed this year’s revenue shortfall to an economic slowdown and unexpected expenses related to natural disasters.
Prescription drugs considered

More than 40 states are considering plans this year to lower the cost of prescription drugs, according to the National Conference of State Legislatures. Many states already have assistance plans in place for the elderly and low-income people. An Ohio bill, supported by Gov. Bob Taft, would encourage pharmacies to join a privately managed program to negotiate group discounts for senior citizens.

In addition to legislative activity, some states are issuing subpoenas to drug companies seeking information on whether states are getting the best price on drugs for Medicaid. According to an April 2 article posted on Stateline.org, states are poised to go to court to force pharmaceutical companies to lower drug costs. Texas Attorney General John Cornyn is suing three drug companies for $79 million for alleged Medicaid fraud based on prices charged. The story reported that states were looking into inflated average wholesale prices charged for drugs used by Medicaid.

Surpluses reported

A surplus from last year will help tide over a current shortfall in Michigan. The state ended the fiscal year last Sept. 30 with a surplus of $211.8 million, according to Budget Director Mary Lannon. However, Senate fiscal agency officials reported that tax collections are down in the current year, so the surplus will help make up for the current revenue shortfall. Michigan also has a rainy-day fund of $1.26 billion.

Meanwhile, New York officials revealed a larger than predicted surplus in April. Gov. George Pataki announced the state received $925 million more than expected in March as personal income tax collections grew by 14 percent. The result is a 2000-2001 surplus of nearly $2.7 billion, or $1 billion more than earlier predicted. The good news came as lawmakers and the governor continued to attempt to reach agreement on the next budget past its due date.

Oklahoma passes budget

Oklahoma Gov. Frank Keating signed the state’s $5 billion general appropriations bill into law after vetoing 55 items. The governor vetoed items totaling $302 million. The budgets are for the fiscal year that starts July 1. The Legislature can reconsider the agencies’ budgets before it adjourns May 25.

Light on welfare

A new study sheds light on the well-being of families that have left welfare rolls. A study of 401 Iowa families who left welfare in spring 1999 found that most remained off assistance for at least a year. However, one-fourth of the majority who found work shortly after leaving welfare were no longer working 8 to 12 months later. About 30 percent of the families that left welfare returned to the rolls within a year.

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As a member of the Illinois General Assembly, I vividly remember voting for the death penalty. During the debate, an opponent of the death penalty asked whether any of us who supported it would be willing to "throw the switch." It was a sobering question, and I wish now that I could swallow the words of unqualified support for the death penalty that I offered.

The fact is now as governor, I do "throw the switch." That's the toughest part of being governor.

I don't know that courage is the best word to describe what I did last year in declaring a moratorium on the death penalty. I just call it doing the right thing. All I did was to respond to the indisputable facts — that the administration of the death penalty in Illinois was not fair, and our record was shameful.

I've been in elective office for more than 30 years. During that time, as a county board member, legislator and executive officeholder, I was a staunch supporter of the death penalty. Like many other elected officials, I have believed there are crimes that are so heinous that the death sentence is the only proper, societal response for the criminals convicted of those crimes in a court of law.

Wrongful convictions raise doubts about fairness.

BY GOV. GEORGE H. RYAN

George H. Ryan is governor of Illinois.
support Gov. George Ryan's decision to suspend executions in Illinois pending a full review of court and prosecution procedures there. Illinois had problems, and they need to be fixed, but that does not mean that what is right for Illinois is right for Oklahoma and other capital-punishment states. In fact, I am convinced that Oklahoma administers capital punishment fairly, with restraint and with every possible safeguard to assure that the innocent are protected while the guilty are held accountable for their crimes.

At the outset it is important to establish two facts. First, the governor does not have the authority to arbitrarily suspend any state law, from collection of the income tax to the execution of the death penalty. Such action would have to be taken by the Legislature. Nor does Oklahoma's governor have the independent power of pardon or commutation without a prior affirmative vote by the state's Pardon and Parole Board. So what has been asked - a gubernatorial moratorium - is not within my power.

Second, we need to be aware that calls for death-penalty moratoriums in state after state have much less to do with any real or imagined flaws in the capital-punishment systems in those states than with the stated agenda of most moratorium supporters: the abolition of capital punishment. To them, a moratorium is a first step. I fundamentally disagree with the central contentions of most death-penalty opponents. Capital punishment is appropriate for certain crimes.

Any state considering a moratorium on capital punishment (or its abolition) should ask these fundamental questions, as we have in Oklahoma, and as Gov. Ryan did in Illinois:

First, are death sentences rare? Capital punishment is appropriate only for specific crimes, the most brutal and heinous and premeditated of murders. Nationally, about one-twelfth of 1 percent of all homicide cases leads to an execution. Oklahoma's figures are comparable. Between 1976, when we reinstated capital punishment, and the end of January 2001, Oklahoma had experienced more than 8,000 homicides and executed less than 40 killers. Nationally, the figures are similar - some 480,000 homicides since 1977, with about 320 executions. Yes, capital punishment is rare.

Second, are there safeguards against the execution of an innocent person? Oklahoma aggressively funds a statewide indigent-defense system to ensure the best possible trial representation in all capital cases. Oklahoma has a full appeals process; in most cases, condemned killers spend at least 12 years on death row as that process unfolds, with careful review at each step. I signed a law to mandate DNA testing in any case where such testing could be a factor, and in January we stayed the execution of a death-row inmate to allow such a test (which proved his guilt). Prior to execution, inmates have the right to a full clemency hearing before the Pardon and Parole Board, and I review those cases meticulously. Our system works. In two cases, inmates were freed from death row after evidence exonerated them, and in several others, appellate decisions have mandated new sentencing or trial proceedings where flaws were detected in the process.

In Oklahoma, capital punishment is extremely rare. It is only imposed after a painstaking process that begins with a fair trial and includes extensive appeals and safeguards. Oklahoma's capital-punishment statutes and procedures pass the tests of fairness and justice.

One of the best features of federalism is that each state is unique and distinct. I would not seek to impose Oklahoma's school funding formula on Tennessee or Massachusetts or Oregon; it is equally mistaken to extrapolate a demand for a national death-penalty moratorium from Illinois' experience.
In February 2001, Earl Washington Jr. was freed from a Virginia prison after being exonerated by DNA tests; he had spent 18 years in prison, nine of them on death row, at one point coming within days of execution. In November 1995, Rolando Cruz was freed from an Illinois prison after a judge overturned his conviction when a police witness acknowledged lying under oath; he had spent nearly 10 years on death row. In June 1993, Kirk Bloodsworth was freed from a Maryland prison after DNA tests showed he could not have been the source of semen found at the crime scene; he had spent eight years in prison, two of them on death row.

These are not the only cases in which wrongly convicted people have been freed from death row. According to the Death Penalty Information Center, 95 people in 22 states have been released from death row since 1973. DNA tests were a factor in at least 10 death-row exonerations, and have helped to free at least 74 people wrongly convicted of all types of crime.

Such exonerations have alarmed state officials across the United States enough to call for changes in state procedures and laws. In Illinois, Gov. George Ryan declared a moratorium on executions after 13 death-row inmates were exonerated during the same period of time that the state had executed 12. Ryan also appointed a blue-ribbon commission to look into the reasons why so many errors had been made in capital cases. (See Point/Counterpoint, page 10-11.)

Prolific state proposals
In the 38 states with the death penalty, in the first three months of 2001
more than 20 legislatures have considered bills to suspend or abolish it, and several states have appointed commissions to look into its fairness. Among states considering moratorium proposals as of mid-March were Connecticut, Florida, Indiana, Kentucky, Mississippi, New Jersey, North Carolina, Pennsylvania, Tennessee, Texas and Washington; moratorium proposals have failed in Maryland, New York, Oklahoma and Virginia.

States considering proposals to abolish the death penalty were Connecticut, Illinois, Indiana, Kentucky, Maryland, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, Oregon and Pennsylvania. An abolition proposal was defeated in Virginia.

Panels were studying various aspects of capital punishment in Arizona, Delaware, Georgia, Illinois, Indiana, Maryland, Nebraska, North Carolina and Virginia, and had been proposed in Florida, Indiana, Kentucky, Missouri, New Jersey, Tennessee, Texas and Washington.

States were considering other proposals to modify laws on capital punishment as of mid-March. Proposals to increase access to DNA tests were being considered in Florida, Kentucky, North Carolina, Ohio, Texas, Utah, Virginia and Washington. In Virginia, DNA tests would become the major exception to the state’s toughest-in-the-nation “21-day rule,” which allows those convicted of crimes only three weeks to submit new evidence of innocence. Texas and Maryland passed laws in April allowing inmates greater access to DNA tests.

Other proposals would ensure defendants get a fair chance in court. Proposals to require competent counsel for defendants facing the death penalty were before legislatures in Kentucky, North Carolina and Texas. Alabama and Arizona were considering proposals to fund indigent defense offices, and Washington was considering a proposal to fund an office that assists on capital cases.

Proposals before a number of states called for protection against racial bias, banning the death penalty for people convicted of crimes committed when they were under 18 and banning it for the mentally retarded. Indiana was considering a proposal that would make it the only state to ban execution of the mentally ill.

Other states were considering alternatives to capital punishment. Texas and Wyoming, two of four death-penalty states that do not offer life without parole as a sentencing option, were considering proposals to do so.

In response to cases of innocent people being imprisoned, Alabama was considering a proposal to pay wrongfully convicted people $50,000 for each year spent in jail. Florida was considering compensating the estate of Frank Lee Smith, a death-row inmate who died of cancer before being exonerated.

Among the dozen states without the death penalty, Minnesota, Rhode Island and Vermont were considering proposals to establish or reinstate it, while such a proposal was defeated in Massachusetts.

Proposals before some states would expand capital-punishment statutes by adding aggravating factors, such as murder of a child or a police officer, homicide while driving drunk or murder in domestic terrorism or spousal-abuse cases.

When the system fails

Death-penalty opponents say they
have never seen a year when so many proposals to change capital punishment were taken so seriously, particularly in states with a high number of executions such as Texas and Virginia. “A lot of people are embarrassed by how bad the system is,” Stephen Bright, director of the Southern Center for Human Rights, told USA Today.

Even some supporters of the death penalty say the system is flawed. “I voted for the death penalty on numerous occasions,” Virginia Del. Frank D. Hargrove Sr., who sponsored a bill to abolish capital punishment, told Stateline.org. “But I was never really certain it was the correct thing to do. There was a huge chance of making a mistake and executing the wrong individual.”

This fear of executing an innocent person has driven much of the inquiry into the death penalty, and for good reason. Although 95 people have been freed from death row since 1973, the pace of exonerations has picked up in recent years. From 1973 to 1993, an average of 2.75 people were freed from death row each year; since then, the average has increased to 5 per year. Eight people were freed in 1999 and eight again in 2000.

People are wrongfully convicted for all sorts of reasons, said Barry Scheck and Peter Neufeld, founders of the Innocence Project at the Benjamin N. Cardozo School of Law in New York. In their book Actual Innocence: When Justice Goes Wrong and How to Make It Right, Scheck and Neufeld analyze the factors contributing to the wrongful conviction of the 74 people they helped to prove innocent as of 1999.

Witnesses who made mistaken identifications were a factor in 81 percent of the wrongful convictions. Police misconduct contributed to 50 percent and prosecutorial misconduct to 45 percent. Microscopic hair comparison proved unreliable in 35 percent. Among other factors were incompetent defense in 32 percent of the wrongful convictions, false confessions in 22 percent and testimony of jail informants in 19 percent, Scheck and Neufeld said.

Although the Innocence Project works on behalf of people convicted of all types of crimes, their findings hold up for death-row exonerations as well. Kirk Bloodsworth was convicted largely on the testimony of two boys who said they saw him near the scene of the crime. Earl Washington Jr., a sharecropper with an IQ of 69, confessed to the crime for which he was sentenced to die — and to every other crime police asked him about. Misconduct by police and prosecutors kept Rolando Cruz on death row for nearly 10 years after another man had confessed to the crime for which he was convicted. Four police officers and three prosecutors were subsequently indicted for perjury and obstruction of justice.

There are other examples. In Oklahoma, Ronald Williamson was convicted in 1988 of the rape and murder of Deborah Sue Carter largely on the basis of microscopic hair comparison and the testimony of a jailhouse informant. Hair comparison, however, is so unreliable that its use is restricted or even barred in some jurisdictions. In one program to test the proficiency of 240 crime laboratories around the country, the U.S. Law Enforcement Assistance Administration found error rates of 27.6 to 67.8 percent in hair-comparison analysis. Williamson was released in 1999, after DNA tests exonerated him but implicated a witness who had testified against him.

The testimony of jailhouse informants is also widely suspect. Although they can sometimes provide important and truthful testimony, informants have little to lose if they lie and much to gain, such as special treatment in prison and shorter sentences, if they help the prosecution’s case. One informant, Leslie Vernon White, admitted lying for prosecutors in dozens of cases in California, then demonstrated how he had done it making five phone calls in which he posed as various state officials to gain insider information about another inmate.
Incompetent defense common

But perhaps the most pervasive reason for wrongful death-row convictions is incompetent defense. In Illinois, Dennis Williams was one of four men convicted in 1979 of kidnapping and murdering a young couple. He was prosecuted largely on the basis of hair analysis and the testimony of a jail informant, and defended by an attorney who was later disbarred after a civil judge found he had mishandled an elderly woman’s estate. After spending 18 years in prison, Williams and the three other defendants, one of whom had also been sentenced to die, were proven innocent largely through the efforts of journalism students at Northwestern University.

Williams’ attorney is not the only one representing defendants facing the death penalty who was later disbarred or disciplined. According to a 1999 report by the Chicago Tribune, the licenses of 33 such attorneys in Illinois had been taken away or suspended since 1976. Lawyers for 43 of the last 131 people executed in Texas had been disbarred or disciplined, the Tribune said.

In Kentucky, an investigation by the Department of Public Advocacy found 25 percent of death-row inmates had been represented by an attorney who was later disbarred or who had resigned to avoid disbarment. In Louisiana, a 1990 study found 13 percent of inmates executed had been represented by lawyers who were later disciplined, a rate 68 times greater than for the state bar as a whole. The lack of competent representation for defendants facing the death penalty is the major reason the American Bar Association called for a moratorium on executions in 1997.

Why are so many defendants facing the death penalty represented by incompetent attorneys? Perhaps the main reason is lack of money. Three-fourths of death-row defendants are represented by court-appointed attorneys over five years. Other states randomly assign capital cases, whether the lawyer has any experience dealing with the death penalty or not.

Nor can an innocent person who has been convicted and sentenced to death find relief from the federal government. In 1995 Congress eliminated funding for Post-Conviction Defender Organizations, which had provided counsel for death-row inmates in 20 states. The next year it passed the Antiterrorism and Effective Death Penalty Reform Act, cutting the time death-row inmates had to appeal their cases to federal courts to just six months.

The Supreme Court has supported these actions. In 1984 it ruled in
Other issues in contention

Besides innocence and DNA, states are considering other issues related to the death penalty. Among the most important are its fairness with regard to race, whether it should apply to people who committed crimes as juveniles and whether it should apply to the mentally retarded.

Race. Whether the death penalty is applied fairly across racial lines has long been an issue. As of Jan. 1, 2001, there were 3,726 people on death row in the United States. Of these, 46 percent were white, 43 percent were black, 9 percent were Hispanic, and 2 percent were of other races. Thus, although whites outnumber blacks on death row, the percentage of blacks on death row is three times higher than in the general population.

The situation is reversed when considering the race of the victims. Of the 904 victims, 82 percent were white, 13 percent were black, 4 percent were Hispanic, and 2 percent were Asian. Among those executed for killing someone of another race, 11 whites had a black victim, while 161 blacks had a white victim.

In 1987, the Supreme Court in McCleskey v. Kemp held that a statistical analysis showing a pattern of racial disparities in death sentences based on the race of the victim did not prove a constitutional violation of equal protection under the law unless intentional racial discrimination against the defendant could be shown.

Despite this, some states have acted to end racial disparity in the application of the death penalty. In 1998, Kentucky passed the Racial Justice Act, which allows defendants in capital cases to present statistical evidence of racial discrimination to show that race influenced the decision to seek the death penalty. If a judge finds that race was a factor, the death penalty would be barred. Georgia Rep. Bill Holmes, who this year sponsored one of five state proposals to ban imposing the death penalty on the basis of race, modeled his bill (HB 324) on Kentucky’s statute.

Juveniles. Another issue facing states is whether people who committed crimes as juveniles should be executed. Of the 3,726 people on death row, 74 were sentenced for crimes committed when they were 16 or 17 years old. Texas has 26 juveniles on death row, the most of any state. Since 1976, 17 people have been executed for crimes committed when they were juveniles.

The Supreme Court has ruled twice on the issue of executing juvenile offenders. In its 1988 decision Thompson v. Oklahoma, the Court held that states with no minimum age for the death penalty could not execute people who commit crimes when they are under 16. But in its 1989 decision Stanford v. Kentucky, the Court said that the ban on cruel and unusual punishment does not prohibit the death penalty for people who commit crimes at age 16 or 17. Currently 15 states have laws prohibiting the death penalty for anyone who commits a crime before turning 18.

Mentally retarded. A third issue facing states is whether to execute the mentally retarded. About 10 percent of the prisoners on death row are mentally retarded, meaning they have IQ scores of less than 70. Since 1976, 35 people with mental retardation have been executed. The Supreme Court in the 1989 case Penry v. Lynaugh ruled that executing the mentally retarded was not a violation of the ban on cruel and unusual punishment, but mental retardation can be a mitigating factor during sentencing.

At the time of the Penry ruling, only two states – Georgia and Maryland – had laws prohibiting execution of the mentally retarded. Since then, 11 additional states have passed such laws, and this year eight more were considering them. Recently, the Supreme Court has decided to revisit the issue by agreeing to hear the appeal of Ernest P. McCraver, a death-row inmate in North Carolina who has an IQ of 67. Arguments are expected in the fall, and a decision is not likely until early 2002.

DNA results vary

More than any other factor, the increasing number of death-row exonerations through DNA testing has driven many state officials to re-examine the capital-punishment system. However, these tests are not a magic bullet.

First, DNA testing can be done only in cases in which biological evidence has been left behind. Thus, while DNA tests are relevant in most sexual assault and some murder cases, they do not apply to many crimes.

Second, even if DNA has been left at a crime scene, it must be collected, handled and stored properly. If police don’t use rubber gloves when collecting DNA evidence, it can be contaminated, or if they don’t store DNA evidence in a freezer, it can be destroyed.

Third, if death-row inmates are to have access to DNA tests, the evidence must be preserved, sometimes
for decades. Yet as Scheck testified before Congress, 75 percent of the time the Innocence Project looked for DNA evidence, it had been lost or destroyed.

Fourth, even if the DNA evidence has been preserved, the state and prosecutor must tell the inmate about it, give the inmate access to it and often must pay for the test. While some prosecutors are eager to exclude an innocent suspect, others refuse to allow DNA testing. And while California, Illinois, New York and Ohio allow inmates who claim they were wrongly convicted to take DNA tests, other states—particularly Florida, Louisiana and Missouri—have resisted allowing access to tests, Scheck said in testimony before the U.S. Congress.

Finally, even if DNA testing is applicable and all parties agree it should be done, the results vary. Sometimes DNA tests reinforce the inmate’s guilt, sometimes there is other convincing evidence of guilt; and sometimes the tests are inconclusive. In addition, DNA testing has improved in recent years, meaning that a more recent test might have a different result than an earlier one.

Because DNA testing cannot help all inmates, and because the courts do not agree on whether inmates have a right to such tests, the U.S. Department of Justice has weighed in on how requests for DNA tests should be handled. In their 1999 report Postconviction DNA Testing: Recommendations for Handling Requests, Jeremy Travis, director of the National Institute of Justice, and Christopher Asplen, executive director of the National Commission on the Future of DNA Evidence, recommended that prosecutors “adopt a cooperative attitude” by responding quickly to requests for DNA tests, acting to prevent destruction of relevant evidence, and locating crime-scene samples. By opting not to take the usual adversarial stance, Travis and Asplen say, prosecutors can save the state time, labor and money by exonerating the wrongly accused, or even by letting defense counsel know about a test that confirms the defendant’s guilt.

Public support for death penalty

According to a Gallup poll conducted in February, 67 percent of people say they support the death penalty while 25 percent are opposed. Of those who favored the death penalty, 48 percent said it was “an eye for an eye,” 20 percent said it saved taxpayers money, and 10 percent saw it as a deterrent for crime. Although a majority of those polled favor the death penalty, the percentage is only slightly higher than the 19-year low measured by polls last year. When asked whether the death penalty or life in prison with no possibility of parole was a better punishment for murder, 54 percent chose the death penalty, while 42 percent chose life without parole.

Americans are divided over whether the death penalty is administered evenly. When asked whether the death penalty is applied fairly or unfairly, 51 percent said fairly while 41 percent said unfairly. But when asked whether an innocent person has been executed in the past five years, 80 percent said yes. When asked whether a poor person is more likely to receive the death penalty than someone of average or above average income, 65 percent said yes. And when asked whether a black person is more likely to be sentenced to death than a white, 50 percent said yes.

Conclusion

The increasing number of exonerations of death-row inmates has raised new questions about capital punishment and about the U.S. justice system. As more inmates seek DNA tests in hopes of proving their innocence, states must not only create procedures for granting such requests, but also must re-evaluate the system that has sent some innocent people to prison and death row. Whatever state officials think about the death penalty, it is certain they will be grappling with these issues in the years to come.

A Texas death row cell. Photo courtesy The Texas Department of Criminal Justice
Sales-tax bill hits the mark

States consider a plan to collect sales and use taxes on sales of goods over the Internet, while Congress considers allowing states to collect taxes on Internet purchases.

BY KRISTIN CORMIER ROBINSON

Congress and state legislatures are considering how to simplify the collection of sales tax on items bought over the Internet. Because the federal moratorium on Internet taxes will end in October 2001, lawmakers are working to ensure that state and local governments can collect sales taxes for online purchases. At stake are portions of the state and local sales-tax base that funds vital services such as education.

The current moratorium on the Internet Tax Freedom Act (P.L. 105-277), enacted in 1998, prohibits states and local governments from charging Internet access fees. While states have clamored to protect their authority to tax Internet purchases, other proposals would al-
low state and local government to retain that authority while extending the moratorium for a short time.

Sales and use taxes are the primary sources of revenue in 45 states and comprise about 40 percent of all state revenues. States are seeing tougher economic times, so protecting their sovereignty and revenue streams is key.

State landscape

In response to the complexity of sales-tax systems and the moratorium on Internet sales tax, state tax administrators began the Streamlined Sales Tax Project last year. They hope to create a voluntary and less burdensome system so that businesses can help states collect sales taxes online. The project, currently in its second phase, includes 29 states.

Project members met in 2000 to develop a plan and model legislation. To simplify state tax systems and set up a multistate compact to give states the authority to have out-of-state Internet merchants collect and remit sales and use taxes. The Streamlined Sales Tax Project is co-chaired by Charles Collins and Diane Hardt, who represent revenue departments in North Carolina and Wisconsin, respectively. Congress needs to authorize the Interstate Sales and Use Tax Compact for taxes to be collected under this voluntary system. At least 18 states were considering the model legislation in 2001. Bills already have been passed and signed into law in Kentucky, South Dakota, Utah and Wyoming. Project leaders hope that as many as 20 states will enact the legislation in the next year.

The National Governors' Association, the National Conference of State Legislatures, the M ultistate Tax Commission, and the Federation of Tax Administrators were all essential in forming and facilitating the project. Earlier this year, NCSL endorsed the model legislation.

The project's plan seeks to ensure that participation by states and retailers is voluntary. The plan also aims to simplify auditing procedures, reporting requirements, and exemptions, and reduce burdens for retailers responsible for collecting and remitting sales taxes. The project's model legislation addresses the issue of nexus, as defined as physical presence in the 1992 Supreme Court decision Quill Corp. v. North Dakota, which exempted businesses from collecting taxes for purchases made by consumers in states where the store does not have a physical presence.

In a hearing before the Senate Commerce Committee in March, Wyoming Gov. Jim Geringer called on Congress to encourage states and localities to simplify their tax systems. He said, “Congress should use any extension of the Internet Tax Freedom Act as an important opportunity to enact legislation establishing a procedure that would encourage states and localities to continue their initiative to develop and implement a simplified and streamlined sales-tax system. Those states that do simplify their sales-tax systems to require remote sellers could then collect sales and use taxes on sales into a state.”

Federal prospects

Congress will decide this year what to do about the moratorium on Internet taxes. State and local government officials are watching closely a bill introduced by Sen. Byron Dorgan, D-North Dakota, a former state tax commissioner. Dorgan said the Internet Tax Moratorium Equity Act (S. 512) will "level the playing field for local retailers that already collect and remit sales tax, while protecting the ability of state and local governments to provide necessary services funded by tax income. ... Any new form of commerce presents a challenge to the rules and structures that have grown up around the old.”

A similar bill is expected to be introduced in the House. Dorgan’s Senate bill would:
• Extend the existing moratorium on Internet access and multiple and discriminatory taxes through Dec. 31, 2005;
• Show that Congress supports voluntary state and local actions to streamline sales and use tax systems, including allowing remote sellers to use information provided by the states to easily identify the single applicable rate for each sale and relieving sellers from liability;
• Require that the simplified tax system include uniform definitions for goods and services, uniform procedures for the treatment of tax exempt purchasers, uniform rules for assigning transactions to a particular tax jurisdiction, and uniform audit procedures and the option for a single-seller's audit;
• Authorize states to enter into an Interstate Sales and Use Tax Compact once 20 states had enacted the streamlined sales tax system - states would adopt the use of the system through legislation and Congress would give consent to entering into the compact;
• Limit voluntary participating remote sellers to those with more than $5 million in annual gross sales; and
• Allow for Congress to disapprove of the compact within 120 days of the 20 states verifying participation.

CSG, along with the six other members of the Big Seven state and local government coalition (The International City/County Management Association, the National Association of Counties, the National Governors' Association, the National League of Cities, the National Conference of State Legislatures, the United States Conference of Mayors) support the goals of the bill to provide a level playing field.
Don't host the world without them
from page21

Today, the District of Columbia arguably serves as the special-events capital of the nation. Emergency management is key to successfully staging nationally prominent events. The D.C. Emergency Management Agency coordinates the District’s support of major events including road races, parades, demonstrations, protests, marches and other large gatherings such as the annual Fourth of July celebration on the Mall.

Peter LaPorte, the District’s emergency management director, heads the Mayor’s Special Events Task Group of city, federal and independent agencies, which meets twice monthly to review plans for proposed special events. “Perhaps the most important thing we do relative to special events is to provide the same overall coordination and control that we do for emergencies,” LaPorte said. “We make sure the city and its citizens are not adversely affected by the event, that all of the needed resources are in place to ensure public safety and that once the event is over the city is returned to its pre-event state.”

The 2001 presidential inauguration ceremonies used the planning and coordination expertise of emergency managers. Emergency management and other district and select federal agencies formed 15 subcommittees addressing security, vending, licensing and inspections, health and medical, communications and public-works issues.

Emergency management also employed prototype technology programs, including a system to provide medical-surveillance information on patient symptoms aimed at identifying unusual patterns of illness as a means to detect any release of a biological agent. Medical-aid stations located near the site of the swearing-in ceremony, along the parade route and at the evening’s celebrations could have been used to transmit medical data for analysis by area health and military agencies. A second prototype program allowed emergency management to track situations and provide a chronology instantly accessible by security forces at the inauguration.

From runners to golfers

Emergency managers are lending their expertise to other special events across the nation. The Massachusetts Emergency Management Agency has long assisted with special-events planning. Annually, the agency helps coordinate the Boston Marathon, which requires route control for up to 20,000 runners, crowd control for up to 1 million spectators, and traffic control for 26 miles of roads and streets. On the day of the marathon, state emergency management officials monitor the race from their emergency operations center and ensure proper communication among the many agencies and organizations involved in the event.

Minnesota’s emergency management agency is working closely with the Professional Golfer’s Association to prepare for a PGA tour event in 2002. The emergency officials are addressing potential problems such as severe weather, bleacher collapse, evacuations and incidents of domestic terrorism. “The PGA sees local and state emergency managers as the key to successfully overcoming events during the tournament,” said director Kevin Leuer.

Emergency managers have much to offer outside the traditional realm of disaster response. States should take advantage of the planning, facilitation and coordination expertise that exists within their own government structure.

Sales tax bill hits the mark
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field for all retail sales through state-based tax simplification for collection of state and local sales and use taxes.

Additionally, some retailers are increasingly interested in a level playing field between retail stores and Internet stores. Peter Lowy, CEO of Westfield America, which has 39 super regional and regional shopping centers, said, “Simply put, there is no logical argument that supports taxing the same retail transaction differently depending on the delivery system. The marketplace should determine sales decisions, not discriminatory tax policies.”

On the other hand, Sen. Ron Wyden, D-Oregon, has introduced a bill to extend the moratorium and impose significant hurdles for states to collect sales taxes on remote sales.

Dorgan is optimistic that a compromise bill can be crafted before the moratorium expires in October. “My sense is that we’re making a lot of progress on this issue,” Dorgan said. “We’ll be looking for the common ground that I think is going to emerge.”

In doing so, Congress will have to address the convergence of technology and how to distinguish between the variety of services to which to apply state and local taxes when telephone, cable, data and other telecommunications services are bundled.

For more, visit www.csg.org and the project at www.geocities.com/streamlined2000/
Utah will be ready for any emergency when it hosts the 2002 Winter Olympic Games. The Olympics pose unique problems for officials responsible for public safety. Olympic planners expect more than 174,000 spectators to attend the games each day and more than 70,000 people to travel to the state for the 16-day event. The center of attention will be the estimated 3,500 athletes and officials from 80 countries who will compete in seven sports with 70 medal events.

With crowds and venues for the Games spread out over seven counties and five cities, keeping everything flowing smoothly promises to be an Olympic-size challenge. Should an emergency arise or a disaster occur, Utah has prepared for a quick, coordinated response. Utah began planning for public safety at the Olympics in 1996 when it established the Utah Olympic Public Safety Command. As an integral part of the command, the Utah Division of Comprehensive Emergency Management has participated in the planning effort from the start.

Utah is among a growing number of states and cities turning to emergency management agencies to help plan and manage large-scale public events. Emergency managers also have played a vital role in the 1996 Summer Olympics in Atlanta, the July 4th celebration on the Mall, the presidential inauguration ceremonies in Washington, D.C., and the Boston Marathon, among other special events. With emergency management involved, International Monetary Fund/World Bank meetings in the District of Columbia and Columbus, Ohio, took place without the headline-making disturbances of Seattle.

Emergency managers are skilled at identifying potential trouble spots, developing and exercising plans, and readying resources for rapid deployment in an emergency. Emergency managers can coordinate resources and assistance available from numerous state agencies and volunteer organizations during a disaster. They can
apply these skills to special events and participate in a coordinated effort involving law enforcement, public health, fire service and emergency medical personnel, all of which must know their roles in emergencies.

An Olympic role

The Utah Division of Comprehensive Emergency Management has helped local jurisdictions and Olympic venues prepare and review operational plans. The division also updated the Utah state emergency-operations plan and assisted state agencies in reviewing and updating their plans. The plans cover every likely hazard and emphasize current procedures on requesting resources and declaring an emergency or disaster.

The division currently chairs two of the 27 subcommittees of the Utah Olympic Public Safety Command. The Infrastructure Protection Subcommittee allows coordinated efforts by representatives from power, water, telecommunications, health-care, transportation, finance, government and emergency services. The Emergency Management Subcommittee ensures that in jurisdictions where Olympic events are held, the existing systems for emergency management are integrated and prepared to respond to a disaster or extraordinary event.

In addition, the division participates in a Joint Terrorism Task Force, established by a presidential directive to coordinate law-enforcement and emergency-response functions. The division also facilitates specialized training for law enforcement, hazardous materials, resources management and counter terrorism in counties and cities where Olympic events are held.

The threat of terrorism

The growing threat of domestic terrorism makes it important for emergency managers to be part of special-events planning. Emergency managers are responsible for managing the consequences of a terrorist event - coordinating the emergency response, securing resources and assistance, ensuring continuity of government and protecting overall public safety. This allows law enforcement officials to focus on the criminal investigation of an incident.

In preparation for the 2002 Winter Games, Utah public safety officials have been working with Georgia public-safety agencies to incorporate lessons learned from the 1996 Summer Olympics. Few people can forget the pipe bomb that detonated inside Centennial Olympic Park, killing two people.

Within 20 minutes of the explosion, state personnel evacuated 60,000 visitors and secured the park as a crime scene and triage area to treat those injured. Within 32 minutes, medical personnel and equipment were set up in the Olympic Ring area so they could respond instantly and 118 of the injured were transported to area hospitals. Crisis and grief counseling was provided to 73 victims. This quick response was attributed to the state’s consolidated approach to public safety combined with its advance planning, personnel training and exercises held for operations plans.

Georgia’s readiness stemmed from then-Gov. Zell Miller’s executive order in 1996 that established the State Olympic Law Enforcement Command and named state emergency management director Gary McConnell as its chief of staff. This order placed all of the state’s resources for public safety under a single command, relying on Georgia’s emergency response capabilities and experience.

Such a coordinated effort is vital to pulling together all the state’s resources and expertise.

“The Games required a total public safety effort, combining all state personnel and resources under one unified command, SOLEC,” McConnell said. “This command, encompassing 29 state agencies, required the total commitment and cooperation of agency heads, as well as the hands on involvement of the governor.”

A national stage

The Atlanta Olympics is an example of emergency management’s ability to facilitate and coordinate various state and local agencies and their resources.
Don’t host the world without them
from page 21

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Beyond Megan's Law

Registration of sex offenders alone will not make communities safer, but there are ways to keep known perpetrators from preying on new victims.

BY WILLIAM WOODWARD

Legislators and policy-makers need to ignore myths about sex offenders if they hope to make their communities safe. With an estimated 265,000 convicted sex offenders under correctional supervision, including more than half of these under community supervision, public safety is paramount.

Myth One: Megan’s Law has solved the sex-offending problem.

Megan’s Law improved our sensitivity to sex offenders released in our communities, but it also gives us a false sense of security. I have heard policymakers say, “We’ve passed Megan’s Law, so we are on top of the problem.”

From my perspective, nothing could be further from the truth. Sex offenders are potentially the most dangerous people in our prisons and communities today. How do we know this? We know from three sources.

First, polygraph data about sex offenders demonstrates that they often lie to probation, parole and community corrections officers about the number of their offenses and victims. A study published in the April 2000 issue of Sex Abuse: A Journal of Research and Treatment compared the records of a sample of sex offenders in Colorado. The study found that during the investigation offenders on the average...
admitted to having two victims and committing seven offenses, but after taking a polygraph they admitted to an average of 165 victims and 511 offenses. Polygraphs are normally administered after sentencing, so often judges don't know these admissions when they sentence.

Second, data from the National Youth Survey, a nationwide study of a random sample of adolescents tracked to age 34, reveals that only about 5 percent who said they had committed a rape were rearrested for that crime. Moreover, all tracked offenders are more likely to first engage in armed robbery and/or aggravated assault a year or more before committing rape. In the survey, the youths were interviewed each year from age 11 through age 34 and asked to disclose delinquent and/or criminal behavior. Based on this study, rape appears to be the culmination of a series of worsening behaviors that includes armed robbery and aggravated assault. These young rapists must receive the most aggressive sex-offender treatment.

Third, the risk of recidivism for sex offenders is much higher than for any other violent offense and does not lessen as offenders grow older, as any probation officer will attest. One probation officer reported that an 84-year-old man in a wheelchair was still molesting children.

Myth Two: Sex offenders are mostly strangers.

Victims of molestation or sexual assault usually know their attackers. National research indicates that about 75 percent of female victims are attacked by someone they know, according to findings from the 1998 National Violence Against Women survey by the National Institute of Justice. Research on sexual assault of children indicates child victims, according to a July report by the Bureau of Justice Statistics, know 86 percent of their offenders. Sex offenders in treatment groups recite countless stories describing how they get close to children using toys, dogs and requests for directions. Sometimes sex offenders even marry to get to their spouse's children.

Myth Three: Psychotherapy can be used to treat sex offenders.

Contrary to common belief, research shows that sex offenders who undergo psychotherapy actually commit more new crimes. The Washington State Institute for Public Policy released a study in August that reported psychotherapy nearly doubled recidivism or repeat offenses by sex offenders. In contrast, the study found cognitive-behavioral programs cut recidivism in half. Cognitive-behavioral programs emphasize challenging thinking errors such as minimizing harm done to victims. The study concluded that chemical and surgical treatments have not been effectively evaluated. The only proven effective treatment for juvenile sex offenders is Multi Systemic Therapy, as reported by the Center for the Study and Prevention of Violence at the University of Colorado, Boulder. Multi Systemic Therapy requires treating the offender in the context of the family, school, peers and other aspects of daily life.

States must evaluate their programs to ensure they are using methods proven effective by current research. Most importantly, each sex offender's treatment provider must be willing to work with the polygrapher and the probation/parole officer to build a "containment" team around the offender.

Myth Four: Psychologists using only clinical skills can assess the dangerousness of sex offenders.

Less than 15 state departments of corrections were using valid instruments to assess sex offenders for dangerousness, according to a review of all 50 states I will publish in June. Only a valid instrument can predict the risk of an offender committing a new sex crime. A valid instrument will consistently predict recidivism. Psychologists who interview sex offenders cannot predict whether they will commit new offenses, according to a review of studies by Robert McGrath of the Vermont Department of Corrections. Predicting the risk posed by an offender based on a clinical interview is commonly used, but is less valid than any other risk instrument.

Myth Five: Sex offenders are under control in my community.

Registering sex offenders is not enough. Registered sex offenders in communities still can be quite dangerous even after treatment. To move beyond registration laws, many jurisdictions have adopted a "containment" model of supervision. This model is based on the assumption that sex offenders are dangerous until proven otherwise, according to a report by the National Institute of Justice. This model offers the greatest hope for the safe management of sex offenders. The model has a five-part process.

Part one: The model's primary objective is public safety. This is often referred to as the "victim-centered" approach. While treating the offender the treatment provider must be thinking about public safety, not about helping the offender feel better.

Part two: Prison, probation, parole and community corrections officials must be designated to only handle sex offenders. This sex-offender specific approach to case management rests on the dual premise that sex offenders are 100 percent responsible for the damage they inflict and must be held accountable by revealing inappropriate thoughts and feelings for treatment to progress and as a condition of their probation or parole.

Three elements work together to
contain the sex offender. First, sex-offender specific treatment must use cognitive-behavioral group therapy. Sex offenders must understand and learn to interrupt the series of thoughts and behaviors which lead to offending. They must get control of their dangerous thoughts and feelings by planning ways to stop them and to call people to help them.

Second, supervision and monitoring by correctional officers must ensure compliance by the offender under supervision with specialized treatment and supervision conditions set by treatment providers.

Third, polygraph exams must be given on a regular basis even after re-treatment providers. Exams can help obtain a complete sexual history to assist in treatment. On a continuing basis, polygraphs can be used to reinforce appropriate behaviors and to sanction inappropriate behaviors. Deceptive results revealed by polygraphs can flag areas that require investigation by treatment providers and probation or parole officers. Keep in mind the polygraph is just one tool to manage sex offenders and is not a “silver bullet.” When used by untrained people, reliance on polygraph results can diminish public safety.

Part three: Everyone who has contact with a sex offender must collaborate their efforts to ensure community safety. Safe management of a sex offender requires a meeting of the team of the treatment provider, supervising officer, polygrapher and at times a victim’s advocate, so that all are in agreement with regard to public safety. Experience and research shows sex offenders are prone to secrecy about their behavior and have inappropriate thoughts and feelings. Some observers have likened sex-offenders’ behavior to those of addicts or people with obsessive-compulsive behaviors. Collaboration efforts can include the offender’s spouse, employer, religious advisor, victim’s advocate, law enforcement, rape-crisis center counselors, prosecuting attorneys, medical doctors, child-protection personnel and so forth. Some jurisdictions even add a “circle of support” to the collaboration team. The circle consists of seven trained citizens with one responsible for the offender each day of the week.

Part four: Consistent public policies are critical to public safety. Laws, executive orders, conditions of release, standards for treatment providers and policies for the management of sex offenders must be internally and externally consistent. Sex offenders frequently manipulate a system without clear jurisdiction-wide policies and procedures. All parties should be at the table to help shape such policies and practices.

Policies should include a ban on pleas that reinforce offenders’ refusal to admit crimes, acknowledge the seriousness of their actions or take responsibility for harm done. Such policies would ban Alford (in which the offender admits there is enough evidence to convict without admitting the crime) and no contest pleas, pleas that reinforce offenders’ refusal to admit crimes, acknowledge the seriousness of their actions or take responsibility for harm done. Such policies would ban Alford (in which the offender admits there is enough evidence to convict without admitting the crime) and no contest pleas, pleas that reinforce offenders’ refusal to admit crimes, acknowledge the seriousness of their actions or take responsibility for harm done. Such policies would ban Alford (in which the offender admits there is enough evidence to convict without admitting the crime) and no contest pleas, pleas that reinforce offenders’ refusal to admit crimes, acknowledge the seriousness of their actions or take responsibility for harm done. Such policies would ban Alford (in which the offender admits there is enough evidence to convict without admitting the crime) and no contest pleas, pleas that reinforce offenders’ refusal to admit crimes, acknowledge the seriousness of their actions or take responsibility for harm done. Such policies would ban Alford (in which the offender admits there is enough evidence to convict without admitting the crime) and no contest pleas, pleas that reinforce offenders’ refusal to admit crimes, acknowledge the seriousness of their actions or take responsibility for harm done. Such policies would ban Alford (in which the offender admits there is enough evidence to convict without admitting the crime) and no contest pleas, pleas that reinforce offenders’ refusal to admit crimes, acknowledge the seriousness of their actions or take responsibility for harm done. Such policies would ban Alford (in which the offender admits there is enough evidence to convict without admitting the crime) and no contest pleas, pleas that reinforce offenders’ refusal to admit crimes, acknowledge the seriousness of their actions or take responsibility for harm done. Such policies would ban Alford (in which the offender admits there is enough evidence to convict without admitting the crime) and no contest pleas, pleas that reinforce offenders’ refusal to admit crimes, acknowledge the seriousness of their actions or take responsibility for harm done. Such policies would ban Alford (in which the offender admits there is enough evidence to convict without admitting the crime) and no contest pleas, pleas that reinforce offenders’ refusal to admit crimes, acknowledge the seriousness of their actions or take responsibility for harm done. Such policies would ban Alford (in which the offender admits there is enough evidence to convic

Part five: Quality control is paramount. Oversight bodies such as sex-offender management boards should monitor policies and practices on an ongoing basis. Monitoring will provide an objective means of determining and
In summary, risk assessment, treatment, monitoring and community accountability of sex offenders are critical to public safety. Few sex offenses get reported to the police. Often we cannot identify sex offenders who prey on many new victims without a full valid assessment. The containment model of supervision, described here, is a reasonable and valid method to better ensure public safety and to allow an offender to obtain effective treatment.

In places where these principles for managing sex offenders are not followed, the public is potentially at higher risk (see “Checklist for policy-makers”). States should move to ensure the consistent application of these principles through laws, executive orders, and policies and procedures. Moreover, states that fail to better manage sex offenders are subject to reasonable lawsuits for damages that could have been prevented if they had employed a proactive strategy.

Policy-makers can seek assistance from the Center for Sex Offender Management and the American Probation and Parole Association (see “Resources”).

More information is available from the Center for Sex Offender Management, a national project to support local jurisdictions in community management of sex offenders managed by the Center for Effective Public Policy and the American Probation and Parole Association, an affiliate of The Council of State Governments. For more information about the center visit www.csom.org or call (301) 589-9383 or Pat Bancroft at APPA, CSG, P.O. Box 11910, Lexington, Ky. 40578-1910, (859) 244-8197, or the Websites www.appa-net.org or www.csg.org.

### Safety in hiring

A new civilian background-check program introduced by the Ohio Bureau of Criminal Identification and Investigation will lessen the chances that child molesters and felons are hired and placed in positions where they can more easily prey on schoolchildren and other vulnerable citizens, reports Ohio Attorney General Betty D. Montgomery.

This innovative program is called “WebCheck,” and as its name suggests, it allows agencies such as schools, nursing homes and day-care centers to conduct civilian background checks using the World Wide Web.

WebCheck, which uses the Internet to electronically transfer fingerprints and other data from an inquiring agency to BCI, an agency of the Ohio attorney general’s office, is available across the state. The innovative program this February won a Center of Excellence for Information Technology 2001 award, announced at the Armed Forces Communications and Electronics Association Sixth Annual Virtual Government conference.

Currently, close to 400 schools and other organizations are successfully using the program, and more than 100 are setting up accounts with BCI. Participating agencies include school districts, education associations, children’s hospitals and public institutions.

This new technology has a profound impact on the speed at which results of the background checks are available. In turn, critical decisions about hiring can be made by the schools and other agencies quickly and with confidence. In 2000, BCI conducted more than 500,000 civilian background checks — an increase over the previous five years of more than 1,000 percent. Those background checks revealed criminal histories for more than 22,000 applicants last year, and 8,800 of those were for people whose criminal histories would have gone undetected using the old method of conducting a name check only. While less than 5 percent of applicants whose backgrounds were investigated were found to have criminal histories, imagine the heartaches that were avoided by keeping those criminals out of schools and day-care centers.

Through conventional mail, background check results can take as long as 30 days to complete. Using a fingerprint scanner and a driver’s license magnetic strip reader, WebCheck allows the necessary data to be sent electronically and instantly over the Internet. Results are available within two business days.

To use the program, agencies must set up an account with BCI and sign a memorandum of understanding regarding financial responsibility and proper use of criminal history information. Technical requirements include a computer, a single digit fingerprint scanner, a driver’s license magnetic strip reader, software and Internet access. The total cost for an agency or school to start the program is about $2,500.

The program will indicate when it finds no criminal history for an applicant. When it does find a criminal history of an applicant, further information will follow in the mail. No criminal history information is sent over the Internet, thus ensuring privacy.

The cost to perform the background checks is $15 per transaction, and $8 to issue an update within one year of the original check. Agencies that choose not to participate may continue to request background checks through the mail. For more information, visit WebCheck’s Internet site at www.webcheck.ag.state.oh.us.
During eight days in Israel, American lawmakers get hands-on civics lesson.

BY MARY LOU COOPER

A small band of American state legislators embarked Dec. 9 on an eight-day visit to Israel for a crash course in the politics and history of “the Promised Land.” The visit came at a troubled and historic time, just nine weeks into the most serious uprising by Palestinians in recent Israeli history. In Israel, Prime Minister Ehud Barak had just resigned his post. In the United States, the winner of the 2000 presidential race was still unknown.

The trigger for the latest Palestinian “intifada” or uprising was a visit by Ariel Sharon, then leader of the right-wing Likud Party and now Israeli prime minister, to a Jerusalem site of deep religious symbolism to both Arabs and Jews — known respectively as Al Aqsa and the Temple Mount. However, as we would learn in the course of our visit, nothing in Israel is as simple as it appears from home.

Our group of four state legislators and representatives from the American Jewish Committee and The Council of State Governments was smaller than the 11 members planned. Our numbers dwindled prior to our departure in response to news reports of violence in the Middle East. Despite warnings from friends and family, the six of us gathered at JFK International for our El Al flight to Tel Aviv’s Ben Gurion Airport. The journey would become the trip of a lifetime.

Our numbers were evenly divided between Republicans and Democrats, men and women. We came from all over the United States — Sen. Bart Davis is from Idaho Falls,
with vast fruit-laden orchards and green fields. But oranges and lemons grown by tanned communal farmers on kibbutzim no longer drive Israel’s economic engine. Today Israel is a high-tech society with more scientists and technicians per 10,000 workers than the United States or Japan. The modern high-rises of Tel Aviv and suburbs of Jerusalem contrast vividly with the ancient walls surrounding the Old City of Jerusalem.

Religion not only unifies the Jewish state, it also divides it. Secular Jews fight with ultra-orthodox Jews about taxes, exemption from military service and whether buses will run on the Sabbath. As the homeland for Jews from throughout the world, Israel’s citizens come from such diverse places as Ethiopia, the United States, Latin America, and Eastern and Western Europe. In the 1990s, the nation experienced massive immigration from the former Soviet Union. Now Israel reaps both the benefits and the challenges associated with a heterogeneous population.

Members of the Knesset, the Israeli parliament, do not represent constituents from distinct geographical districts. Rather they represent political and religious factions exclusively. As many as 17 different parties make up the Knesset, which makes putting together a government coalition a matter for miracle workers. All-consuming national security issues make it difficult for the government to pay enough attention to domestic matters such as infrastructure and social services.

From left to right, almost every Jewish Israeli we met agreed on one point. They believe that the U.S. media, especially CNN, is biased toward the Palestinians in reports on the Middle East. If so, these media reports are spectacularly ineffective in molding opinion. Recent Gallup polls show that the American public favors Israel over Palestinian Arabs by a margin of 51 percent to 16 percent.

Our American vision of two peoples fighting over land, water, sovereignty and security doesn’t begin to capture the fact that each of the two groups contains many peoples with different backgrounds, interests and beliefs. We learned, for example, that 20 percent of Israeli citizens (1 million people) are of Arab descent, and generations of Arabs have lived in East Jerusalem for the past 1,200 years.

Our teachers on this journey offered a Middle-Eastern banquet of

Voices from inside Israel

“Arabs must understand the great hurt done to Jews during the Holocaust. And Jews must understand the hurt of Arabs whose land has been taken away.” — Kifah Massarwi, Israeli-Arab

“I have a right to my 20,000 kilometers. … The Jewish People don’t have another home.” — Israel Harel, Jewish settlement resident

“Amerika is Israel, and Israel is Amerika…. To die is better than to live under humiliation.” — Palestinian Authority Minister Ziad Abu Zayyad

“A Jew is not a Zionist.” — Poster in an ultra-orthodox neighborhood in Jerusalem

“This is a place where you get on the #18 bus and you don’t know if you’ll make it to the end of the line.” — Rabbi Levi Lauer

“At first we didn’t really think they (Caucasian Israelis) were really Jewish. … We had to learn everything.” — Orley Takura, Ethiopian immigrant

“We can’t occupy the Palestinians, and we can’t make peace with them.” — Yossi Klein Halevi, Israeli journalist
political and religious perspectives. At the U.S. Embassy, Deputy Chief of Mission Paul Simons reported on diplomatic relations between our two countries. (Israel is the No. 1 recipient of U.S. foreign aid, but much of the $28 billion yearly appropriation is returned to the United States in the form of military purchases.) We heard from Yossi Alpher, former director of Center for Strategic Studies at Tel Aviv University and an ex official of the Mossad, Israel’s elite foreign-intelligence agency, on the peace process, and from Hebrew University Professor Ehud Sprinzak on Israeli politics.

Gil Keinan, an economist with Israel’s Ministry of Industry and Trade, took us through the labyrinth of Israel’s economy, and Sachi Gerlitz, senior vice president of Converse Technology gave us the private sector’s view of Israel as a major player in world communications technology.

Labor Party member Eli Goldschmidt answered dozens of questions about the Knesset. We met with former Likud Chief of Staff Yossi Ben-Aaron, who articulated his opposition to “land for peace” proposals. We also spent time with the Palestinian Authority’s Minister of State for Jerusalem, Ziad Abu Zayyad, to understand his views on the peace process.

The representative of Israel’s foreign ministry, Dani Mokady, told us that Israel needed to sign a peace agreement “yesterday.” Yossi Klein Halevi, the American-born writer for Jerusalem Report and The New Republic, explained why the Israeli people have become disillusioned with government peace proposals.

Some of the best lessons on our journey through Israel came from people such as our guide Menachem Hefetz, a retired El Al security officer and storyteller of Old and New Testament history. His friend, Kifah Massarwi, helped us see Israel through the eyes of a highly educated Arab-Israeli woman torn between two worlds. Eran Glik, a farmer at the Kibbutz Merom Golan, informed us that only 3 percent of the Israeli population now lives on kibbutzim and those that remain are privatizing to survive.

Hava Levene, mother of 11 and spokeswoman for the Neve Michael Children’s Village, talked with us about Israeli children living at the home Jewish settlement resident and advocate Israel Harel gave us an impassioned lecture on why he believes Israelis cannot withdraw from communities built on Arab land acquired during the 1967 Six-Day War. Sarabeth Lukin and Ron Krumer gave us a tour of Hadassah Hospital Ein-Kerem in Jerusalem, where both Arabs and Jews are treated without regard to religion or politics. Ethiopian immigrant Orley Takura and Russian Genia Gitkis told us heartwarming stories of their “absorption” into Israeli life.

Rabbi Levi Lauer allowed us a glimpse of his personal feelings as a husband and father living in a dangerous world. Home visits with two Israeli families offered conversations about everyday life and a welcome respite from intensive political talks.

As we climbed aboard our tightly packed El Al jet to leave after our eight-day journey through Israel, the words of Jerusalem Report writer Yossi Klein Halevi came to mind. “Allow your confusion to seep in,” he said. “It’s a good place to begin your understanding of our issues.”
Although American students have significantly improved their test scores in reading and math over the past decade, they still rank below more than half the children in the world.

According to the National Center for Education Statistics, the nation's fourth-graders showed significant improvement in math test scores between 1990 and 1998, the most recent scores available. But when compared to the test scores of children from other countries, Americans still ranked below the 50th percentile. The NCES found similar results in reading scores between 1990-98.

Continuing low scores have raised concern on both the federal and state level. "It is uncomfortably clear that our system of elementary and secondary education is failing to do its job for too many of our children — a failure that threatens the future of our nation," U.S. Secretary of Education Rod Paige said in February in a speech to the U.S. Senate Committee on Health, Education, Labor and Pensions.

State officials, too, are examining their education systems and governors are calling for educational improvements in their legislative proposals. In every state and the District of Columbia, standardized testing is being emphasized. But while some advocate standardized testing for accountability, others argue that teaching the essentials of reading and math should have priority.

Standardized testing

Under standardized testing, students are continually tested to see how well they perform on standards developed by state education officials. These tests not only give teachers and parents an idea of how a student is doing, but also provide officials with statistics on how well a school district or state is performing as a whole.

Advocates say the reason for standardized tests is that they promote accountability, making it easier to find out where schools, teachers and students fall short in their educational programs.

States seek to raise grades

Governors are looking at standardized testing and individual attention as ways to help children do better in school.

BY TRYSH L. HOLMES

Trysh L. Holmes is marketing and public relations intern at The Council of State Governments.

Idaho Gov. Dirk Kempthorne proposed education improvements.
One supporter, Missouri Gov. Bob Holden, wants to establish school accountability report cards that would outline classroom conditions, professional qualifications of teachers, class size, graduation, dropout rates and school safety. The cards also would show how tax dollars are being spent.

“By holding schools accountable in this way, parents, taxpayers, and school patrons can compare the evaluation of their school with other schools in the area,” Holden said in his 2001 State of the State address. “School report cards will also be useful to other schools – pointing out successful school strategies and practices that other schools can adopt to improve their institution.”

But opponents of standardized tests point out that while they provide accountability, there are negative effects to perpetually testing students. One of the biggest problems with the standardized testing is that it narrows the curriculum, said Jennifer Jacobson, an educational consultant.

“Fearing test results, teachers limit their instruction to focus on test-related content. Little attention is given to science, social studies, art, and music,” she said. Although test scores may rise, they do not reflect learning or understanding on the part of students.

**Individual attention**

While some see standardized tests as the way to boost student performance, others argue that it is better for teachers to give students extra attention in problem areas. Many state officials support this idea and would like to incorporate it into their curricula.

“Not matter how good the teacher, how small the class, how focused on quality education the school may be, none of this matters if we ignore the individual needs of our students,” Georgia Gov. Roy Barnes said in his State of the State address. “One of the greatest disservices we can do to a child is to ignore the fact that he needs a little extra help, or a little extra time to learn.”

Barnes cited statistics showing that Georgia has some of the lowest test scores in the country. In SAT score performance Georgia ranks second to last, ahead of only South Carolina. Georgia’s standardized testing shows that in 252 of 1,800 public schools in the state, more than 50 percent of students do not have basic skills as defined by state curriculum assessment standards.

Research of Wisconsin’s Student Achievement Guarantee in Education program supports the idea that giving individual attention to students will improve performance. Researchers Alex Molnar, Philip Smith and John Zohorik found that students performed at higher levels when teachers had one-on-one contact with them to focus on strengthening basic skills. The teachers could provide constant feedback when students were asked to discuss and demonstrate what they knew. The students who learned in this environment performed at higher levels compared to students in average-sized classrooms.

While individual attention can boost student performance, however, classes in many schools are too big for teachers to give all students, particularly those performing below grade level, the one-on-one time and attention they need.

**A blended approach**

“No Child Left Behind,” is President George W. Bush’s national education plan to focus on individual students so that each one can succeed. Across the nation, state governments are proposing plans that also revolve around this concept. These plans attempt not only to raise standardized test scores and increase accountability, but also to cater to students with special needs and provide additional instruction in certain subject areas.

Nevada Gov. Kenny C. Guinn, formerly the superintendent of schools in Clark County, has outlined a goal of teaching all children to read by the end of third grade. To achieve this goal he plans to spend $69 million in six areas: $10 million on extra teacher training to focus on new and inventive reading techniques; $4 million on regional teacher-training facilities; $20 million on education technology and new textbooks; $8 million on early childhood education; $7 million on remediation in under-performing schools; and $20 million on maintaining low class ratios in the first, second and third grades. Although this plan has not yet been approved by the Legislature, it has been met with great enthusiasm by education officials including state superintendent Jack McLaughlin.

Delaware Gov. Ruth Ann Minner has proposed putting a reading specialist in every elementary school to help address low scores in reading and to pull low-performing students up to grade-level proficiency. The plan is estimated to cost $5 million.

Idaho Gov. Dirk Kempthorne has proposed reading and math initiatives to increase student proficiency in both areas by 10 percent each year. The goal is that by the end of 2004, 90 percent of Idaho’s children will be reading and performing math at or above grade level, Kempthorne said in his 2001 State of the State address.

In Colorado, statistics showed that almost a third of the state’s third-graders were not proficient in reading. To help change that, Gov. Bill Owens announced last year the “Read to Achieve” Initiative, which is sending grants to elementary schools to help every child read at grade level by the time they enter fourth grade. More than $15 million was sent to various schools across the state, with one school receiving a grant to fund reading education for a single student.

These proposals and plans are being submitted at the start of a new century with a trend to a stronger focus on education.
Don’t host the world without them
from page 21

Today, the District of Columbia arguably serves as the special-events capital of the nation. Emergency management is key to successfully staging nationally prominent events. The D.C. Emergency Management Agency coordinates the District’s support of major events including road races, parades, demonstrations, protests, marches and other large gatherings such as the annual Fourth of July celebration on the Mall.

Peter LaPorte, the District’s emergency management director, heads the Mayor’s Special Events Task Group of city, federal and independent agencies, which meets twice monthly to review plans for proposed special events. “Perhaps the most important thing we do relative to special events is to provide the same overall coordination and control that we do for emergencies,” LaPorte said. “We make sure the city and its citizens are not adversely affected by the event, that all of the needed resources are in place to ensure public safety and that once the event is over the city is returned to its pre-event state.”

The 2001 presidential inauguration ceremonies used the planning and coordination expertise of emergency managers. Emergency management and other districts and select federal agencies formed 15 subcommittees addressing security, vendor, licensing and inspections, health and medical, communications and public-works issues.

Emergency management also employed prototype technology programs, including a system to provide medical-surveillance information on patient symptoms aimed at identifying unusual patterns of illness as a means to detect any release of a biological agent. Medical-aid stations located near the site of the swearing-in ceremony, along the parade route and at the evening’s celebrations could have been used to transmit medical data for analysis by area health and military agencies. A second prototype program allowed emergency management to track situations and provide a chronology instantly accessible by security forces at the inauguration.

From runners to golfers

Emergency managers are lending their expertise to other special events across the nation. The Massachusetts Emergency Management Agency has long assisted with special-events planning. Annually, the agency helps coordinate the Boston Marathon, which requires route control for up to 20,000 runners, crowd control for up to 1 million spectators, and traffic control for 26 miles of roads and streets. On the day of the marathon, state emergency management officials monitor the race from their emergency operations center and ensure proper communication among the many agencies and organizations involved in the event.

Minnesota’s emergency management agency is working closely with the Professional Golfer’s Association to prepare for a PGA tour event in 2002. The emergency officials are addressing potential problems such as severe weather, bleacher collapse, evacuations and incidents of domestic terrorism. “The PGA sees local and state emergency managers as the key to successfully overcoming events during the tournament,” said director Kevin Leuer.

Emergency managers have much to offer outside the traditional realm of disaster response. States should take advantage of the planning, facilitation and coordination expertise that exists within their own government structure.

Sales tax bill hits the mark
from page 19

field for all retail sales through state-based tax simplification for collection of state and local sales and use taxes.

Additionally, some retailers are increasingly interested in a level playing field between retail stores and Internet stores. Peter Lowy, CEO of Westfield America, which has 39 super regional and regional shopping centers, said, “Simply put, there is no logical argument that supports taxing the same retail transaction differently depending on the delivery system. The marketplace should determine sales decisions, not discriminatory tax policies.”

On the other hand, Sen. Ron Wyden, D-Oregon, has introduced a bill to extend the moratorium and impose significant hurdles for states to collect sales taxes on remote sales.

Dorgan is optimistic that a compromise bill can be crafted before the moratorium expires in October. “My sense is that we’re making a lot of progress on this issue,” Dorgan said. “We’ll be looking for the common ground that I think is going to emerge.”

In doing so, Congress will have to address the convergence of technology and how to distinguish between the variety of services to which to apply state and local taxes when telephone, cable, data and other telecommunications services are bundled.

For more, visit www.csg.org and the project at www.geocities.com/streamlined2000/
CSG hosts leaders from Kosovo

CSG’s National Institute for State Conflict Management hosted an ethnically diverse group from Kosovo March 2-9 in Lexington, Ky.

The group of 44 mayors, vice-mayors and council members who came to Kentucky for dispute resolution and municipal administration training included ethnic Albanians, as well as representatives of the Serb, Bosniak, Turk, Ashkali, Roma and Gorani minority populations within Kosovo.

Prior to their stay, the Kosovar officials also attended a workshop on developing good governance by the U.S. Institute for Peace in Warrenton, Va.

The U.S. Agency for International Development and the U.S. Department of State co-sponsored both programs, and World Learning/TRANSIT-Europe served as the programming agent.

The Institute used a combination of panels, lectures and site visits to assist the officials from Kosovo in their endeavor to resolve disputes and rebuild municipalities after the conflict between the ethnic Albanian and Serbian populations.

At panel discussions the Kosovar officials learned how Lexington has handled issues such as waste disposal, fair housing, environmental pollution, economic development, intergovernmental disputes, international finance and racially based conflicts.

Panelists included Lexington police chief Larry Walsh, Lexington-Fayette Urban County Council Member George Brown, former Lexington Vice Mayor Teresa Isaac, University of Kentucky law professor Kathryn Moore, Dag Ryen, the Kentucky League of Cities’ director of research, and Keon S. Chi, editor of the CSG journal Spectrum: The Journal of State Government.

Albert Harberson, the Institute’s director, trained the officials in dispute resolution, while Magdalena Mook, a CSG policy analyst, told the officials about CSG’s international projects.

The Kosovar officials also visited various local and state sites and were recognized by Lexington Mayor Pam Miller. The officials were addressed by CSG Executive Director Daniel M. Sprague and presented with the Commonwealth of Kentucky’s highest honor, the Kentucky Colonel.

The Institute commends Delta Airlines for continuing its tradition of excellence in customer service on this project.

State employees recognized

May 7-11 has been designated Public Employee Recognition Week, and the National Association of State Personnel Executives has designated May 9 as State Employee Recognition Day.

NASPE recently revised its mission to include enhancing the image of state public service, and the organization is taking an active role in recognizing the outstanding work of the more than 2 million state employees across the country.

NASPE plans to help states coordinate recognition day activities and publicize the events. For more information on State Employee Recognition Day, contact Leslie Scott, NASPE association manager, at (859) 244-8182 or e-mail her at lscott@csg.org.

CSG-WEST announces new officers

New CSG-WEST officers will set policy for the organization and lead its Executive Committee in 2001.

California Assemblywoman Elaine Alquist, an active member of CSG since her election to the Assembly in 1996, will chair the organization, stepping up from chairwoman-elect. She also created and chaired the CSG-WEST Committee on Aging, which held forums on long-term care alternatives and baby-boomer readiness for retirement. Alquist represents the heart of the Silicon Valley and is the first Greek-American woman elected to the California Legislature. In the Assembly, Alquist has chaired technology and aging committees, and most recently the Committee on Higher Education.

Chairman-elect is Nevada Assembly Minority Leader Lynn Hettrick, who was elected to the Legislature in 1992. He served as co-speaker of the Nevada Assembly in 1995 in an arrangement nationally recognized for its bipartisan cooperation and collegiality. Hettrick chaired the CSG-WEST Committee on the Future of Western Legislatures in 2000.

Hawaii Sen. Brian Taniguchi, vice chairman, is a longtime CSG participant, having served in the House since 1980. He has served as vice chair of the WESTRENDS board, which identifies demographic, social and cultural trends that affect the politics and economics in Western states. Taniguchi currently chairs the Hawaii Senate Ways and Means Committee.

New Mexico Senate Majority Floor Leader Timothy Z. Jennings, past chair, has a long history with CSG and is especially active on public lands and natural-resource issues. He has served in the New Mexico Legislature since 1979.
Nebraska hosts MLC annual meeting

Best-selling author Stephen Ambrose and political commentator Mark Shields will address the 56th Annual Meeting of the Midwestern Legislative Conference, scheduled July 29-Aug. 1, in Lincoln, Neb.

Ambrose, a historian, is author of Citizen Soldiers, Undaunted Courage and Nothing Like It in the World. Ambrose served as the historical consultant to Steven Spielberg for the film “Saving Private Ryan.” Shields is a syndicated columnist, an author and appears on “The NewsHour with Jim Lehrer” on PBS and “The Capital Gang” on CNN.

The MLC Annual Meeting provides Midwestern legislators with the chance to meet and discuss various issues facing the region. Through sessions and speakers, the meeting also highlights policies and ideas that are working in the Midwest and provides legislators with professional development opportunities. Special events will be held for first-time attendees and legislative staff, and all of the MLC’s policy committees will meet.

This year, MLC members are invited to attend the conference one day early to take part in a Habitat for Humanity house-construction project. Habitat assists families who do not have the financial resources to purchase their own homes. MLC volunteers will help build a home for a local family.

To register for the meeting, visit the Midwestern Office of The Council of State Governments online at www.csgmidwest.org. Registration forms and details about the meeting will be delivered to MLC members. For more information, call Laura Kliewer at (630) 810-0210.

A reader writes


In the article, Mr. Rosenthal refers to Wisconsin lobbyists filing with the secretary of state. Wisconsin statutes require lobbyists to file with the State Ethics Board, which maintains an up-to-date listing of all registered principles and lobbyists on their Web site. Registrations are also published in the Senate Daily Journal of Proceedings.
Western legislators will gather July 25-28 in Whistler, B.C., for a joint annual meeting of CSG-WEST and the Pacific NorthWest Economic Region, a non-profit, public/private partnership of members from Northwestern United States and Western Canadian provinces.

The meeting, convening 75 miles north of the U.S. border, will explore the common cultural, political and economic issues that define the Western region of North America. CSG-WEST committees will share ideas and solutions on challenges such as policy on public lands, water, aging, election reform and transportation.

All meeting attendees are invited to participate in PNWER sessions, on topics such as forestry, telecommunications, tourism and dispute resolution.

In keeping with the meeting theme, Future of the North American West: Three Nations, One Region, British Columbia Premier Ujjal Dosanjh and Idaho Gov. Dirk Kempthorne, CSG president and chair of the Western Governors’ Association, will open with a global perspective on the region.

Other sessions will focus on the new economy, U.S. and Canadian perspectives on health care, the region’s energy reliability and efficiency, the differences and similarities of legislating in state and parliament systems and regional perspectives on higher education.

The British Columbia host committee is planning a family-centered conference that promises to be informative and entertaining. The Whistler Resort is an enchanting alpine village that lies among lakes in the Coast Mountains of British Columbia. A variety of recreational activities, shops and restaurants can be found in the resort’s village. Hotel prices are competitive, ranging from $68 to $139 U.S. for accommodations that vary from single rooms to one-bedroom suites with full kitchens.

For registration and housing information, call (415) 974-6422 or visit the CSG-WEST Web site at http://www.csgwest.org/meetings/Whistler2001/contents.html.

You can’t judge a book by its cover

If you know BOCA, Uniform or Standard Codes, you already know a lot about the 2000 International Codes. Many provisions of the International Codes are the same provisions and referenced standards that you are already familiar with.

BOCA International offers code adoption support so you can make the transition to the International Codes with confidence.
How will repeal of the federal estate tax affect states?
President Bush's tax plan calls for the elimination of the federal estate and gift tax over the next decade. A repeal of the federal tax would effectively rescind most states' estate taxes and significantly affect state fiscal affairs.

In 38 states and the District of Columbia with death taxes, estates need to pay only the state taxes. This is because there is a dollar-for-dollar credit against the federal estate tax for the state tax up to a certain amount. In essence, these states levy no additional burden on the taxpayer. Repeal of the federal tax will repeal the state tax as well in these states.

States collected $7.5 billion in death taxes in fiscal year 1999, amounting to 1.5 percent of all tax collections. The estate-tax portion of all state tax collections varies from a high of 4.6 percent in New Hampshire to 0.2 percent in Alaska and Utah. The jurisdictions with pick-up taxes will lose almost $4 billion if the federal tax is repealed. The 10 states with separate state inheritance or estate taxes will not lose revenue immediately (Indiana, Iowa, Kentucky, Maryland, New Hampshire, New Jersey, Ohio, Oklahoma, Pennsylvania and Tennessee).

Although separate estate taxes in 10 states would remain in effect following a federal repeal, states have traditionally followed the lead of the federal tax law. Practically then, the remaining state tax estate taxes also are likely to vanish soon.

Which states have sales-tax holidays?
Seven states offer sales-tax holidays as a break to working families. First introduced in New York in 1997, these laws offer consumers tax-free buying power on certain merchandise for select periods of time, usually during the back-to-school shopping period. The holidays also seek to lure shoppers from neighboring states.

Last year, Connecticut, Florida, Iowa, New York, Pennsylvania, South Carolina and Texas offered tax holidays, while Maryland is slated to implement the program this year, according to the Federation of Tax Administrators. The scope and duration of the tax holidays varies by state. New York exempts any clothing purchase under $110 throughout the year, but the remaining states offer a sales-tax break for a period of between two days and two weeks on a variety of items. Clothing, footwear and accessories are among the items listed in the laws, while Pennsylvania and South Carolina also exempt computer purchases during their holidays.

Not all states like the idea. The legislatures in Kansas, Michigan, Ohio, Oklahoma and Virginia recently voted down similar laws. Some critics argue that the programs do not attract additional shoppers, while others cite the considerable expense and administrative burden of the programs.

Which states exempt prescription drugs from sales taxes?

Paying for prescription drugs is a problem for many Americans and drug costs are highly debated in state government. To help people afford medications that are vital for life, most states offer a sales-tax exemption on prescription drugs.

All but one of the 45 states with a sales tax and the District of Columbia exempt prescription drugs. Only Idaho levies a sales tax on prescription drugs; however, its tax rate is only 1 percent. Furthermore, eight states and the District of Columbia offer a sales-tax exemption on nonprescription drugs as well. These states are Florida, Maryland, Minnesota, New Jersey, North Carolina, Pennsylvania, Rhode Island and Virginia.

Part of the above tax data was provided by the Federation of Tax Administrators. For more information regarding this issue or others, contact the States Information Center at (888) CSG-4SIC or sic@csg.org.
What is the message?

BY ALAN ROSENTHAL

State legislatures throughout the country are engaged in civic education, communicating to citizens knowledge of how the legislature is organized, how a bill becomes a law and the like. While this legislative enterprise is useful, the knowledge communicated is at the periphery of what citizens really need to know about representative democracy. Much more fundamental education on government is needed to challenge the cynical perceptions of Americans toward politicians and political institutions.

The first popular perception is that legislators are unethical, even dishonest. Two out of five Americans say that “quite a few” people running government are crooked. A majority believes it is “almost impossible” for those they elect to stay honest after going into politics. In a recent poll of New Jerseyans, half the respondents thought that anywhere from 50 percent to 100 percent of politicians were corrupt.

Public perceptions of the integrity of legislators vary from state to state, but public perceptions are certainly not positive nor are they accurate. An essential element in any educational message about the system must deal with the basic integrity of those elected to legislative office. The fact is that the overwhelming majority of the 7,425 legislators in the states are honest and public spirited. They are in politics to do good – to help constituents in their districts, to improve education or health, to craft better policy generally and to make a difference. They also want to get re-elected, and many would like to pursue careers in public life.

The second popular perception is that legislators don’t care what ordinary people think but respond only to special interests. A few years ago, a national survey found that 61 percent agreed with the statement, “I don’t think public officials care much what people like me think.” When asked, “Would you say the government is run by a few big interests looking out for themselves or that it is run for the benefit of all people,” only one-quarter believed government is run for everyone’s benefit. The process by which this gets accomplished includes deliberation, negotiation and compromise. The normal outcome is a settlement in which one side wins, but the other side does not lose too much. None of what goes on is especially obvious and none of it is neat. It is messy, just as democracy should be.

Here, then, is the essential message of representative democracy, a message that state legislatures are not yet delivering to the public. Legislatures ought to get on message, and then they ought to stay on message. There are various ways to deliver this message, but its essence must deal with integrity, representation, and conflict and consensus building.

Legislatures need to educate the public about representative democracy.

Alan Rosenthal is a professor with the Eagleton Institute of Politics at Rutgers University.

Legislators care about their constituents for three principal reasons: first, they truly regard themselves as one of their own constituency; second, they believe it is their job to represent the interests of their constituents; and third, they realize that if they don’t, their constituents might vote them out of office. Whatever the issue, the question every legislator asks (implicitly, if not explicitly) is: Will it hurt my constituency?

The third popular perception is that people essentially agree on the issues, on what policies ought to get enacted and how to solve public problems, but politics and bickering get in the way of what has to be done. No part of this public perception is correct. The final essential element in an educational message must counter the misperception that Americans agree on most policy issues. Why should they? They may agree on broad goals (everyone is for better education, a cleaner environment and improved medical care), but they are likely to disagree on specifics and priorities. Americans are divided on abortion, capital punishment and practically every major issue that Congress and state legislatures confront. In a diverse nation, is it any wonder that people have different values, different interests and different opinions? The legislature’s job is to resolve disagreement. The process by which this gets accomplished includes deliberation, negotiation and compromise. The normal outcome is a settlement in which one side wins, but the other side does not lose too much. None of what goes on is especially obvious and none of it is neat. It is messy, just as democracy should be.

Here, then, is the essential message of representative democracy, a message that state legislatures are not yet delivering to the public. Legislatures ought to get on message, and then they ought to stay on message. There are various ways to deliver this message, but its essence must deal with integrity, representation, and conflict and consensus building.

Legislatures need to educate the public about representative democracy.
Futurists seldom agree on what we can or should do about the future. But they all tend to agree that the public is not being well served today because in the past policy-makers have failed to invest in the future. Some futurists, such as political scientist Robert Nisbet, maintain that tomorrow cannot be predicted by looking at yesterday and today. He said, “The present does not contain the future, nor was our present ever contained in the past, not if we are concerned with change.” He argues that futurists are confusing continuity of chronology with continuity of circumstances and events.

“Forecasters are rationalists, thus over-emphasizing the importance of rationality in human behavior,” said Frank Trippett of Time magazine. “Forecasts are subject to optimism and pessimism, and the forecaster may be thwarted by misreading the present.” In Trippett’s opinion, the seeds of tomorrow are buried in today, but they lie too deep and germinate too subtly for ordinary eyes to detect their potential.

On the other hand, other futurists tell us that we can forecast public policy and do something about the future. They contend we can anticipate change through extrapolation and foresee potential problems through use of advanced technology and sophisticated methodology, so that we might prevent problems instead of merely reacting to them.

Government policy-makers have often been blamed for failing to anticipate the future. In futurist Alvin Toffler’s words, “Our political decision-makers swing wildly back and forth between doing nothing about a problem until it explodes into crisis and, alternately, racing in with ill-equipped, poorly pre-assessed crash programs.”

Edward Cornish of the World Future Society said, “The future does not just happen to us. We ourselves create it by what we do and what we fail to do. It is we who are making tomorrow when tomorrow will be. For that reason, we futurists now think less in terms of predicting the future and more in terms of trying to decide more wisely what we want the future to be.”

During the past three decades, there has been a rise and fall of foresight activities in the private sector and government. The 1970s saw a surge of futures projects at all levels of government. By the mid-1980s, at least 40 such projects were underway in 30 states. A typical government futures project addressed four broad questions: Where are we now? Where are the trends taking us? Where do we want to go? And, what do we need to do to get there? The term anticipatory democracy coined by Toffler was fashionable in the 1980s. In the past decade, however, foresight programs seemed to have lost their appeal in the wake of a booming economy and relatively peaceful world.

Kentucky is one of a handful of states with ongoing foresight programs. In 1988, the state’s Legislative Research Commission created a program to provide legislators with information on the potential long-term impact of various public policies and to anticipate issues or trends likely to have a significant impact on the state. As part of the program, staff began scanning news and developments to alert legislators to emerging issues deserving attention. Legislative leaders believed that early identification of emerging trends would give the Legislature time to take advantage of opportunities and to ward off problems. In addition, the General Assembly in 1992 created the Kentucky Long-term Policy Research Policy Center to illuminate the long-range implications of current policies, emerging issues and trends influencing the state’s future. The center, which has since produced numerous reports, serves as a model for other states.

A national organization of the 50 states and U.S. territories, The Council of State Governments, recently announced a trends-tracking mission that will alert policy-makers to emerging issues. “State government leaders who face growing demands on their time and on state resources need assistance to identify, analyze and respond to emerging trends,” said Idaho Gov. Dirk Kempthorne, CSG’s president for 2001.

Foresight, the process of identifying and interpreting information and data by looking ahead, can help state leaders better prepare for social, economic, technological and political changes. Foresight also can help them make more informed and wiser decisions. Finally, foresight activities are needed in an era of so-called “Fend for Yourself Federalism” when the states are expected to be more responsible and accountable than ever before.
This calendar lists annual meeting dates of associations serving state officials. For more information on a particular meeting, call the number listed.

“CSG” denotes organizations affiliated with CSG.

Direct new entries or corrections by the first of the month to:
Stephanie Linn
The Conference Calendar
CSG
P.O. Box 11910
Lexington, KY 40578-1910
(859) 244-8115
or e-mail to slinn@csg.org
Visit CSG’s Web site, www.csg.org or www.statesnews.org, to see updated information and links to other organizations and host cities.

MAY 2001
May 13-15 — Sunday-Tuesday
Interstate Oil and Gas Compact Midyear Meeting – Anchorage, AK — The Captain Cook Hotel. Telephone inquiries to (405) 525-3556 or e-mail to igocc@igocc.state.ok.us
May 14-17 — Monday-Thursday
CSG/National Association of State Telecommunications Directors Midwestern Regional Meeting – Indianapolis, IN — Embassy Suites Hotel Indianaplis Downtown (Britton, Lexington) (859) 244-8174, www.nastd.org
May 16-19 — Wednesday-Saturday
CSG and the University of Kentucky Martin School of Public Administration Virtual Connections: Linking State Capitals and Public Universities in an Era of e-Government Meeting – Lexington, KY — Embassy Suites (Humble, Lexington) (859) 244-8174, jhumble@csg.org
May 16-19 — Wednesday — Saturday Association of Inspectors General Conference – Miami Beach, FL — Miami Beach Ocean Resort (McEntee, Boston) (617) 720-2969
May 20 — Sunday
CSG Agricultural Policy Task Force – Washington, D.C. — Radisson Barcelo (Lackey, Lexington) (859) 244-8163, cindy@csg.org
May 22-25 — Tuesday-Friday
CSG/National Association of State Treasurers Midwestern Conference – Indianapolis, IN — The Omni Hotel (Hamilton, Lexington) (859) 244-8174, hamilton@csg.org

JUNE 2001
June 2-6 — Saturday-Wednesday
CSG/National Association of State Telecommunications Directors Southern Region Meeting — Charlotte, NC — Hilton Charlotte Towers (Britton, Lexington) (859) 244-8187 or www.nastd.org
June 9-13 — Saturday-Wednesday
CSG/National Association of State Facilities Administrators Annual Conference and Trade Show – Lexington, KY (Stone, Lexington) (859) 244-8111, mstone@csg.org
June 14-16 — Thursday-Saturday
CSG/State Debt Management Network Annual Conference – Kennebunkport, ME — The Colony Hotel (Hamilton, Lexington) (859) 244-8174, hamilton@csg.org
June 16-20 — Saturday-Wednesday
CSG/National Association of State Telecommunications Directors Western Region Meeting – Rapid City, SD — Rushmore Plaza Holiday Inn (Britton, Lexington) (859) 244-8187 or www.nastd.org
June 17-20 — Sunday-Wednesday
CSG/National Association of State Treasurers Northeast Conference – Kennebunkport, ME — The Colony Hotel (Hamilton, Lexington) (859) 244-8174, hamilton@csg.org
June 27-July 1 — Wednesday-Sunday
CSG/National Conference of Lieutenant Governors Annual Meeting – Louisville, KY — The Seelbach Hotel (Manning, Lexington) (859) 244-8171, gmanning@csg.org or www.nclg.org

JULY 2001
July 7-11 — Saturday-Wednesday
CSG/National Association of State Personnel Executive Directors National Annual Meeting – Big Sky, MT — Big Sky Ski & Summer Resort (Scott, Lexington) (859) 244-8182, lscott@csg.org
July 13-15 — Friday-Sunday
CSG/National Association of State Election Directors Annual Summer Meeting – Little Rock, AR — The Excelsior (Scott, DC) (202) 624-5460, dscott@csg.org
July 13-17 — Friday-Tuesday
CSG/National Association of Secretaries of State Summer Meeting – Little Rock, AR — The Excelsior (Reynolds, DC) (202) 624-5352, reynolds@nsg.org
July 14-18 — Saturday-Wednesday
CSG/Southern Legislative Conference Annual Meeting – Savannah, GA — See Web site for hotel – www.sclatiana.org (Cousineau, Atlanta) (404) 266-1271, scatiana.org
July 14-18 — Saturday-Wednesday
CSG/National Association of Governmental Labor Officials Summer Meeting — Minnesota — Hotel to be determined (Scott, DC) (202) 624-5460, dscott@csg.org
July 25-28 — Saturday-Wednesday
July 25-28 — Saturday-Wednesday
CSG/National Association of State Treasurers Western Conference – Sun Valley, ID — The Sun Valley Lodge (Hamilton, Lexington) (859) 244-8174, hamilton@csg.org
July 29-August 1 — Sunday-Wednesday
CSG/Midwestern Legislative Conference 56th Annual Meeting – Lincoln, NE — The Cornhusker (McCabe, Lombard) (630) 810-0210
July 31-August 4 — Tuesday-Saturday
American Legislative Exchange Council Annual Meeting – New York, NY — The Marriott Grand Marquis (Dougherty, D.C.) (202) 466-3800 or pdougherty@alec.org

AUGUST 2001
August 4-7 — Saturday-Tuesday
National Governors’ Association — Providence, RI (Feuchtwanger, D.C.) (202) 624-5333 or (LaPalie, DC) (202) 624-5344, www.nga.org
August 12-16 — Sunday-Thursday
National Conference of State Legislatures – San Antonio, TX — Hotel to be determined (Scott, DC) (202) 624-5344, www.nsl.org
August 17-21 — Friday-Tuesday
CSG/Bowhay Institute for Legislative Leadership Development – Madison, WI — Fluno Center (Tomaka, Lombard) (630) 810-0210, or e-mail to itomaka@csg.org
August 18-23 — Saturday-Tuesday
CSG Henry Toll Fellowship Program – Lexington, KY — Hilton Suites at Lexington Green (Humble, Lexington) (859) 244-8225 or see Web site at www.csg.org or e-mail to jhumble@csg.org
August 25-30 — Saturday-Thursday
CSG/National Association of State Telecommunication Directors Annual Conference and Trade Show – Charleston, SC (Britton, Lexington) (859) 244-8187, kbritton@nastd.org
August 26-29 — Sunday-Wednesday
CSG/Eastern Regional Conference Annual Meeting – Bartlett, N.H. – Hotel to be determined (Stanley, New York) (212) 912-0128
August 26-29 — Sunday-Wednesday
CSG/American Probation and Parole Association 26th Annual Institute — St. Paul, MN – Hotel to be determined (Swimfond, Lexington) (859) 244-8194

SEPTEMBER 2001
September 6-8 — Thursday-Saturday
CSG/College Savings Plan Network Annual Conference – Santa Fe, NM – Eldorado Hotel (Hamilton, Lexington) (859) 244-8174, hamilton@csg.org
September 7-12 — Friday-Wednesday
CSG/National Emergency Management Association Annual Conference – Big Sky, MT – Big Sky Resort (Schwitzgen, Lexington) (859) 244-8162, schwitzgen@csg.org
September 9-11 — Sunday-Tuesday
CSG/Southern Governors’ Association 67th Annual Meeting – Lexington, KY – Marriott’s Griffin Gate Resort (Purdy, DC) (202) 624-5897, lizpurdy@soo.org
September 9-12 — Sunday-Wednesday
CSG/National Association of State Treasurers 26th Annual Meeting – El Dorado Hotel (Hamilton, Lexington) (859) 244-8174, hamilton@csg.org
September 13-15 — Thursday-Saturday
CSG/Council on Licensure, Enforcement and Regulation Annual Conference – San Antonio, TX (Works, Lexington) (859) 269-1802
September 20-24 — Thursday-Monday
CSG 2001 Annual Meeting and State Leadership Forum – Anchorage, AK – The Captain Cook and Anchorage Hilton (Hines, Lexington) (859) 244-8103, whines@csg.org

DECEMBER 2001
December 9-11 — Sunday-Tuesday
Interstate Oil and Gas Compact Commission Annual Meeting – Santa Fe, NM – El Dorado Hotel. Telephone inquiries to (405) 525-3556 or e-mail to igocc@igocc.state.ok.us

AUGUST 2002
August 3-7 — Saturday-Wednesday
CSG/Southern Legislative Conference Annual Meeting – New Orleans, LA — Sheraton New Orleans (Cousineau, Atlanta) (404) 266-1271, scatiana.org